

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

APPEAL BRIEF TRANSMITTAL		Docket Number: 10191/1847	Conf. No. 4385
Application Number 09/873,444	Filing Date June 4, 2001	Examiner K. T. NGUYEN	Art Unit 2674
Invention Title METHOD FOR ALLOCATING OPERATOR CONTROL FUNCTIONS TO OPERATOR-COMMUNICATION CONTROLS OF AN ELECTRONIC DEVICE WHICH IS ABLE TO EXECUTE THE FUNCTIONS OF A PLURALITY OF ELECTRONIC DEVICES AS SWITCHABLE FUNCTIONS, ESPECIALLY DEVICES IN MOTOR VEHICLE LUXURY FEATURE ELECTRONICS, AND THE CORRESPONDING DEVICE		Inventor Helmar-Steffen GEHRKE et al.	

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Date: 1/24, 2005 Reg. No. 36,197

Signature: [Signature]
Jong H. Lee

Further to the Notice of Appeal dated November 18, 2004 (filed at the PTO on November 22, 2004) for the above-referenced application, enclosed are three copies of an Appeal Brief. Accompanying the Appeal Brief is the Appendix to the Appeal Brief.

The Commissioner is hereby authorized to charge payment of the 37 C.F.R. § 1.17(c) appeal brief filing fee of **\$500.00**, and any additional fees associated with this communication to the deposit account of **Kenyon & Kenyon**, deposit account number **11-0600**.

Dated: 1/24, 2005

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[10191/1847]

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant(s) : Helmar-Steffen GEHRKE et al.
Appl. No. : 09/873,444
Filed : June 4, 2001
For : METHOD FOR ALLOCATING OPERATOR CONTROL
FUNCTIONS TO OPERATOR-COMMUNICATION
CONTROLS OF AN ELECTRONIC DEVICE WHICH IS ABLE
TO EXECUTE THE FUNCTIONS OF A PLURALITY OF
ELECTRONIC DEVICES AS SWITCHABLE FUNCTIONS,
ESPECIALLY DEVICES IN MOTOR VEHICLE LUXURY
FEATURE ELECTRONICS, AND THE CORRESPONDING
DEVICE
Art Unit : 2674
Examiner : K. T. NGUYEN
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**APPELLANTS' APPEAL BRIEF
UNDER 37 C.F.R. § 1.192**

S I R :

Applicants filed a Notice of Appeal dated November 18, 2004 (filed at the PTO on November 22, 2004) appealing from the Final Office Action dated May 20, 2004, in which claims 1-10 of the above-identified application were finally rejected. This Brief is submitted by Applicants in support of their appeal.

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I. REAL PARTIES IN INTEREST

The above-identified Applicants and Robert Bosch GmbH of Stuttgart, Germany, are the real parties in interest.

II. RELATED APPEALS AND INTERFERENCES

No appeal or interference which will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal is known to exist to the undersigned attorney or is believed by the undersigned attorney to be known to exist to Applicants.

III. STATUS OF CLAIMS

Claims 1-10 are pending in this application. Applicants appealed from the final rejection of claims 1-10 made in the final Office Action mailed by the Patent Office on May 20, 2004. Of the claims presently on appeal, claims 1 and 5 are independent; claims 2-4 depend on claim 1; and claims 6-10 ultimately depend on claim 5.

IV. STATUS OF AMENDMENTS

No amendment has been made subsequent to the final Office Action mailed on May 20, 2004.

V. SUMMARY OF THE INVENTION

The present invention relates to a method and a device for selectively allocating a plurality of operator control functions to control elements, such that the same control elements are able to execute functions in devices of completely different types, thereby achieving the advantage that different devices can be uniformly operated in practice, without the need for the operator to learn a new set of control symbols for each device to be controlled. (Specification, p. 2, l. 30 – p. 3, l. 8). In accordance with the present invention, well-known operating symbols

for operating a predetermined type of device are also used for operating synonymous functions in devices of a totally different kind. (P. 3, l. 8-11).

Figure 1 shows a basic version of an operating console according to the present invention, which console has five operating keys with symbols representing generally understood, basic technical functions, i.e., “play,” “pause,” “stop,” “previous,” and “next.” (Fig. 1; p. 6, l. 5-6). The operating console shown in Figure 1 is a separate, independent device, having approximately the dimensions of the front of a CD player. (P. 6, l. 8-10). Shown at the left of the figure is a rotary button acting as a rotary switch 12, which activates, i.e. selects, the control of various technical devices according to the rotary position set. (P. 6, l. 10-12). Depending on a particular setting of the rotary switch, a selected device corresponding to the setting of the rotary switch can be controlled. (P. 6, l. 12-13).

Extending to the right of the rotary switch 12 is an alphanumeric display 14, which provides a text indication of the actually selected device, and, optionally, further information relevant to the operating context. (P. 6, l. 15-17). If it is the radio that is being controlled at the moment, the currently set station's name and/or its frequency could be displayed, depending on the available display capacity. (P. 6, l. 17-19). Furthermore, a reference symbol may be displayed, to point out the existence of additional operating functions which may be controlled with the five operating keys. (P. 6, l. 19-22).

The above-mentioned five operating keys representing the basic technical functions of a given technical device are illustrated in a row: the “play” symbol at the left end, which is a triangle pointing to the right; the pause symbol, second from the left, which includes two parallel, vertical lines; the stop symbol, third from the left, which is a square; the “previous” symbol, fourth from the left, which includes a vertical line having an adjoining horizontal line and a triangle pointing left; and the “next” symbol, at the right end, which is a mirror image of the “previous” symbol. (Fig. 1; p. 6, l. 26 – p. 7, l. 2).

Figure 2 shows the operating console depicted in Figure 1, with the rotary switch 12 set to a position corresponding to the control of the CD player in the automobile. (P. 7, l. 4-5). In this example, the five operating keys are interpreted in the generally known manner, i.e., from left to right: play, pause, stop, previous track, and next track (of the inserted CD). (P. 7, l. 6-8).

Figure 3 illustrates the operating console with the rotary switch set to a position corresponding to the control of a radio. (P. 7, l. 10). As seen from left to right, the following functions are implemented by the five operating keys: play, mute, off, previous station, next station. (P. 7, l. 10-11).

Figure 4 illustrates the operating console with the rotary switch set to a position corresponding to the control of a television unit. (P. 7, l. 13). As shown in Fig. 4, from left to right, the following functions are implemented by the five operating keys: play, mute, off, previous station, next station.

Figure 5 illustrates the operating console with the rotary switch set to a position corresponding to the control of a traffic information system. (P. 7, l. 15). From left to right, the following functions are implemented by the five operating keys: play, pause, stop, indication or announcement of the previous status message report, and indication or announcement of the next status message report (assuming that a certain predefined sequence of traffic information status message reports is available to the system). (P. 7, l. 15-20).

Figure 6 illustrates the operating console with the rotary switch set to a position corresponding to the control of a telephone. (P. 7, l. 22). In this example, the "play" key can be used for having a conversation, i.e., for dialing an input telephone number. (P. 7, l. 22-23). For this purpose, telephone numbers may be made available in a telephone number memory, which can be interrogated by the "previous" and "next" keys positioned on the right side of the operating console. (P. 7, l. 23-25).

In connection with the example of Fig. 6, it is also possible to enter a telephone number using another numerical input device already present in the automobile, if it has a corresponding logical or physical connection to the operating console. (P. 7, l. 27-29). Alternatively, there could be made available a connection to a mobile telephone, which could then be used for inputting the telephone number. (P. 7, l. 29-31).

Figure 7 illustrates the operating console with the rotary switch set to a position corresponding to the control of a navigation system. (P. 8, l. 1). In this example, the function of starting navigation is controlled by using the play key. (P. 8, l. 1-2). The pause key is used for temporarily interrupting navigation. (P. 8, l. 2-3). The stop key is used to cancel a previously entered destination. (P. 8, l. 3-4). The "previous" (or skip backwards) key can be used to repeat

the last status message report given out by the navigation system, and the “next” (or skip forwards) key can be used to announce and/or indicate the next turn-off point from the currently traveled road. (P. 8, l. 4-7).

Figure 8 illustrates the operating console with the rotary switch set to a position corresponding to the control of a vehicle speed. (P. 8, l. 9). In this example, the play key is used for activating the vehicle-speed control; the pause key and the stop key are used for deactivating the vehicle-speed control; the “previous” (or skip backwards) key is used for setting a lower speed; and the “next” (or skip forwards) key is used for setting a higher speed. (P. 8, l. 9-12).

Figure 9 illustrates the operating console with the rotary switch set to a position corresponding to the control of a ventilation system. (P. 8, l. 14). The play key is used for switching on the system; the pause key is used for temporary air circulation control, i.e., a purely internal circulation inside the automobile; the stop key is used for switching off the system; the “previous” (or skip backwards) key is used for reducing the ventilator power; and the “next” (or skip forwards) key is used for increasing the ventilator power. (P. 8, l. 14-18).

Figure 10 illustrates the operating console with the rotary switch set to a position corresponding to the control of a heating system. (P. 8, l. 20). The play key is used for switching on the heating system; the pause key can be used for an “economy” operation function; the stop key is used for switching off the system; the “previous” (or skip backwards) key is used for setting a lower temperature; and the “next” (or skip forwards) key is used to set a higher temperature. (P. 8, l. 20-24). An automatic climate control system could be controlled in the same way, in which case the “next” (or skip forwards) key and the “previous” (or skip backwards) keys would be associated with different temperature numbers, and indicated on the display. (P. 8, l. 24-26).

Figure 11 shows an alternative example embodiment which includes steering wheel keyboard having keys for selecting a device to be controlled, as well as the five operating keys for different control functions. (P. 8, l. 28-29). In the broad spoke extending to the right of the illustrated steering wheel shown in Fig. 11, two press keys are provided, which assume the function of the rotary button 12 shown in Figure 1. (P. 8, l. 31 – p. 9, l. 1). Any respective menu point in the selection menu can be started up by pressing the arrow key; the selection menu may be illustrated in a continual loop, so that a continual pressing of one of the two arrow

keys would eventually again lead to the selection of a menu function that has already been started. (P. 9, l. 1-5). In the left region of the steering wheel, the five operating keys for different control functions are arranged next to one another. (P. 9, l. 7-8).

Additional symbols may be added to, and/or substituted for, the five operating key symbols discussed in connection with the above example embodiments. (P. 9, l. 17-18 and 26-28). Examples include the plus symbol, the minus symbol, and the circle in its meaning as zero or as a neutral element. (P. 9, l. 28-29). The operating concept could likewise be meaningfully broadened by YES keys or NO keys, when the operation of a device is so complicated that it seems to make sense to bring up on the display certain program-controlled questions which the user can then answer by pressing one of the above-named Yes/No keys, thereby operating the device in a corresponding manner. (P. 9, l. 31 – p. 10, l. 4).

VI. GROUNDS OF REJECTION TO BE REVIEWED

A) Whether claims 1 to 7 are anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 6,373,472 (“Palalau”).

B) Whether claims 8 to 10 are rendered obvious under 35 U.S.C. § 103(a) by Palalau in view of U.S. Patent No. 6,686,911 (“Levin”).

VII. GROUPING OF CLAIMS

For each ground of rejection, all claims subject to the rejection will be argued as a single group.

VIII. ARGUMENTS

A. Claims 1 to 7

Claims 1 to 7 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,373,472 (“Palalau”). Applicants respectfully submit that the rejection should be reversed for at least the following reasons.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(e), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)). To the extent the anticipation rejection is based on the inherence doctrine, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)).

Claim 1 recites “making available a predetermined number of *operator controls* assigned to respective *operating functions of a first device type*; assigning respective *operating functions of each further type of device to the operator controls*; and *selecting a device type to be controlled by the operator controls among various device types, the operating functions of the operator controls being changed corresponding to the selection.*” Claim 5 recites “a switching device for *switching application of the control system among various device types to be controlled*, wherein *operating functions of the plurality of operator controls are changed corresponding to a selected device type to be controlled.*” Applicants note that the present invention as recited in claims 1 and 5 provides a control system including *a switching device* and a separate set of operator control elements such that the *entire set of operator control elements* may be applied to *a device type selected by the switching device*, which selected device type is chosen among many different device types to be controlled, i.e., *the same set of operator control elements* perform a *completely different set of functions* depending on *the type of device that has been selected* for control. In other words, each operator control element may be used for completely different types of device, and *depending on the type of device selected*, the particular operator control element will have *a different control function*. For example, the set of five control buttons shown in Fig. 3 of the present application perform one set of functions for controlling a radio, and the same set of five control buttons perform a completely different set of functions for controlling a telephone, as shown in Fig. 6. In contrast,

the Palalau reference clearly does not teach or suggest the above-recited features of claims 1 and 5.

In support of the rejection, the Examiner states in the final Office Action that Palalau teaches “selecting a device type (see switching 28) to be controlled by the operator controls among various device types (audio, climate, navigation . . . , because the switch 28 can select audio, climate or navigation) the operating functions (fig. 9b) of the operator controls being changed corresponding to the selection (see figures 9a-9b).” (Final Office Action, pp. 2-3). The Examiner repeats this assertion in the Advisory Action mailed on November 1, 2004. Furthermore, in the “Response to Arguments” section of the final Office Action, the Examiner states that the claimed feature of “selecting a device type to be controlled by the operator controls among various device types, operating functions of the operator controls being changed corresponding to the selection” is satisfied because “Palau et al. disclose a selecting (28) controlled by operator controls (30) among various device types (28a-28f or audio, climate . . .).” Applicants will address the deficiencies of these contentions made by the Examiner in detail below.

Regarding the Examiner’s first contention relying on the combination of switch 28 and Figs. 9a and 9b of Palalau, i.e., the contention that Palalau teaches “selecting a device type to be controlled by the operator controls among various device types (audio, climate, navigation . . . , because the switch 28 can select audio, climate or navigation) the operating functions of the operator controls being changed corresponding to the selection (see figures 9a-9b),” Applicants note that the switches 28a-28f are fixed-function switches, i.e., ***the function of each button doesn't change depending on the selected device type, particularly since each button merely designates a fixed device type, and the device type associated with a particular control button can't be changed.*** In fact, the Examiner acknowledges that buttons 28a-28f represent “various device types.” (See “Response to Arguments” section of final Office Action). While column 3, lines 48-55 of Palalau indicate that the “functions of each of the feature group switches 28 . . . change to be personalized for each operator and change as appropriate based upon the user's previous selections. . . ,” it is clear that ***each of the switches 28a - 28f controls one fixed type of device***, e.g., it is quite clear that switch 28a is limited solely to audio control, and switch 28b is solely limited to climate control, etc. This limitation is clearly shown in the example given in column 3, l. 53-55: “upon activating the hard audio group switch 28a in Fig.

2a, hard switch 28a is subsequently reconfigured to activate the volume feature.” Accordingly, the statement in Palalau that “functions of each of the feature group switches 28 . . . change to be personalized for each operator” merely indicates that *different function choices may be made for a particular device type* represented by each button 28a, 28b, etc., but *not a change in the device type* represented by the particular button, i.e., the *function of each button* 28a, 28b, etc., *can’t be changed depending on the selected device type*.

Furthermore, to the extent the Examiner relies on Fig. 9a of Palalau, the description in Palalau associated with Fig. 9a indicates that “the center touch screen 32 is shown displaying *graphic representation 100a-f of the feature group switches 28a-f*.” (Col. 6, l. 7-9). Upon “activating the audio feature group switch 100a on center touch screen 32, center touch screen 32 is reconfigured as shown in Fig. 9b,” which would include volume, balance, tuning and CD control buttons. (Col. 6, l. 17-24). Accordingly, while the configuration of the touch screen 32 is dependent on the particular switch selected amongst switches 100a-100e, it is quite clear that *only one touch screen configuration is provided for each “device” type selected, e.g., audio 100a*, and there is absolutely no suggestion in Palalau that *the same touch screen configuration would be provided for two different types of “devices” selected* (e.g., audio and climate), let alone any suggestion that the control “buttons” (e.g., 102d “play”) shown on touch screen 32 would have *different functions for different “device” types* (e.g., button 102d is “play” for audio operation 100a, and button 102d is “cool” for climate operation 100b).

In view of the above discussion, Applicants respectfully submit that the Palalau reference does not identically disclose (or even suggest) the feature of “making available a predetermined number of *operator controls assigned to respective operating functions of a first device type; assigning respective operating functions of each further type of device to the operator controls; and selecting a device type to be controlled by the operator controls among various device types, the operating functions of the operator controls being changed corresponding to the selection,*” as recited in claim 1, or the feature of “a switching device for *switching application of the control system among various device types to be controlled, wherein operating functions of the plurality of operator controls are changed corresponding to a selected device type to be controlled,*” as recited in claim 5. For the foregoing reasons, the Palalau reference does not anticipate the subject matter of claims 1 and 5. Claims 2 to 4 depend from claim 1, and are therefore allowable for the same reasons as claim 1. Claims 6 and 7

depend from claim 5, and are therefore allowable for the same reasons as claim 5. It is therefore respectfully submitted that the rejections of claims 1 to 7 should be reversed.

B. Claims 8 to 10

Claims 8 to 10 were rejected under 35 U.S.C. § 103(a) as being obvious over the Palalau reference in view of U.S. Patent No. 6,686,911 (“Levin”).

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), not only must the prior art **teach or suggest each element of the claim**, but the prior art must also **suggest combining the elements in the manner contemplated by the claim**. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990).

Claims 8 to 10 ultimately depend from allowable claim 5. Claim 5 recites “a switching device for *switching application of the control system among various device types to be controlled*, wherein *operating functions of the plurality of operator controls are changed corresponding to a selected device type to be controlled*.” At best, Palalau merely indicates that *different function choices may be made for a particular device type* represented by each control button 28a, 28b, etc., but *not a change in the device type* represented by the particular button, i.e., the *function of each button 28a, 28b, etc., doesn’t change depending on the selected device type*, particularly since *each control button merely designates a fixed device type, and the device type associated with a particular control button can’t be changed according to Palalau*. Furthermore, Applicants note that Levin clearly does not cure the critical deficiencies of Palalau as applied against parent claim 5, since Levin clearly does not teach or suggest “a switching device for *switching application of the control system among various device types to be controlled*, wherein *operating functions of the plurality of operator controls are changed corresponding to a selected device type to be controlled*.” Accordingly, even if there were some motivation to combine the teachings of Palalau and Levin, the resulting combination would not teach or suggest all of the features of parent claim 5, from which claims 8 and 10 depend. Accordingly, Applicants respectfully submit that dependent claims 8 to 10 are patentable over the combination of Palalau and Levin. It is therefore respectfully submitted that the rejection of claims 8 to 10 should be reversed.

IX. CONCLUSION

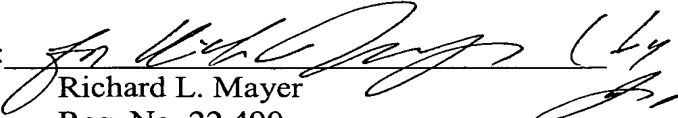
For the foregoing reasons, it is respectfully submitted that the final rejection of claims 1-10 should be reversed.

Respectfully submitted,

KENYON & KENYON

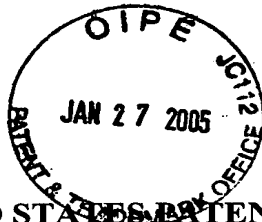
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FUNCTIONS TO OPERATOR-COMMUNICATION CONTROLS
OF AN ELECTRONIC DEVICE WHICH IS ABLE TO EXECUTE
THE FUNCTIONS OF A PLURALITY OF ELECTRONIC
DEVICES AS SWITCHABLE FUNCTIONS, ESPECIALLY
DEVICES IN MOTOR VEHICLE LUXURY FEATURE
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Art Unit : 2674
Examiner : K. T. NGUYEN
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Date: 1/28, 2005 Reg. No. 36,197

Signature: 
Jong H. Lee

**APPENDIX TO APPELLANTS' APPEAL BRIEF
UNDER 37 C.F.R. § 1.192**

S I R :

The claims involved in this appeal, claims 1-10, in their current form after entry of
all amendments presented during the course of prosecution, are set forth below:

APPEALED CLAIMS:

1. A method for allocating operating control functions to operating-communications controls of
an electronic device which is capable of executing functions of a plurality of electronic devices as
switchable functions, the method comprising:

making available a predetermined number of operator controls assigned to
respective operating functions of a first device type;

assigning respective operating functions of each further type of device to the operator controls; and

selecting a device type to be controlled by the operator controls among various device types, the operating functions of the operator controls being changed corresponding to the selection.

2. The method according to claim 1, further comprising characterizing the operator controls using at least one of the following symbols from an audio field: a play symbol, a stop symbol, a pause symbol, a skip forwards symbol, a skip backwards symbol, a double arrow left, and a double arrow right.

3. The method according to claim 1, wherein the types of devices include at least one of the following types: a radio set, a television set, a traffic information system, a telephone, a navigation system, a vehicle-speed control, an air circulating system, a heating system and an air conditioning.

4. The method according to claim 1, wherein the electronic devices are devices in motor vehicle luxury feature electronics.

5. A control system comprising:

a plurality of operator controls:

a switching device for switching application of the control system among various device types to be controlled, wherein operating functions of the plurality of operator controls are changed corresponding to a selected device type to be controlled; and

a display for indicating the type of device to be controlled and corresponding operating function parameters.

6. The device according to claim 5, wherein the control system is an operating console at least partially integrated into a steering wheel.

7. The control system according to claim 5, further comprising:
a selection switch for selecting a device type to be controlled.

8. The control system according to claim 7, wherein the selection switch is a rotary control with a plurality of selection settings corresponding to a plurality of device types, and wherein the selection switch activates the selected device type to be controlled.


9. The control system according to claim 7, wherein the display is an alphanumeric display for displaying in text form the selected type of device to be controlled.

10. The control system according to claim 8, wherein the display is an alphanumeric display for displaying in text form the selected type of device to be controlled.

Respectfully submitted,

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